

# **Equal Opportunity (Amendment) Bill**

**No.**

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#### **REMOVAL OF DISCRIMINATORY PROVISIONS IN CERTAIN ACTS**



# LEGISLATIVE ASSEMBLY

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Read 1° 8 April 1987

*(Brought in by Mr Mathews and Mr Fordham)*

## A BILL

to amend the *Equal Opportunity Act* 1984 and certain other Acts and for other purposes.

### **Equal Opportunity (Amendment) Act 1987**

The Parliament of Victoria enacts as follows:

#### **Purpose of Act.**

1. The purpose of this Act is—

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- (a) to change the method of appointment of the Commissioner for Equal Opportunity; and
  - (b) to empower the Commissioner for Equal Opportunity to initiate investigations in certain cases; and
  - (c) to remove discriminatory language from certain other Acts.

#### **Commencement.**

- 10 2. This Act comes into operation on a day to be proclaimed.

#### **Principal Act.**

3. In this Act the *Equal Opportunity Act* 1984 is called the Principal Act.

Act No. 10095 as  
amended by  
No. 10247

**Appointment of Commissioner.**

4. (1) For section 6 (1) of the Principal Act, substitute—

“(1) There shall be a Commissioner for Equal Opportunity appointed by the Governor in Council.

(1A) Subject to this Part, the Commissioner holds office for such period not exceeding five years as is specified in the instrument of that person’s appointment but is eligible for re-appointment. 5

(1B) Subject to this Part, the Governor in Council may, in the instrument of appointment of the Commissioner, specify terms and conditions of appointment. 10

(1C) The Commissioner must be paid such travelling and other allowances as are fixed from time to time by the Governor in Council.

(1D) The Commissioner is not, by reason only of that person’s office as Commissioner, subject to the provisions of the *Public Service Act* 1974. 15

(1E) If the Commissioner is unable, whether on account of illness or otherwise, to perform the duties of that person’s office or there is a vacancy in the office of Commissioner, the Minister may appoint a person to act as Commissioner during the period of inability or until the filling of the vacancy. 20

(1F) If a person has been appointed under this section to act as Commissioner during the period of inability of the Commissioner and the Commissioner ceases to hold office without having resumed the performance of the duties of the office, the period of appointment of the person so appointed shall be deemed to continue until the appointment is terminated by the Governor in Council or until the expiration of the period of twelve months after the date on which the Commissioner has ceased to hold office, whichever first happens. 25

(1G) The Commissioner ceases to hold office if the Commissioner—

(a) becomes bankrupt; or 30

(b) is convicted of an indictable offence or of an offence which, if committed in Victoria, would be an indictable offence; or

(c) becomes incapable of performing the duties of office; or

(d) is removed from office or resigns by writing signed by the Commissioner and delivered to the Governor in Council; 35  
or

(e) attains the age of 65 years; or

(f) dies.

(1H) The Governor in Council may suspend or remove the Commissioner from office.”. 40

(2) On and from the date of coming into operation of this Act—

- (a) the person who holds the office of Commissioner for Equal Opportunity at that date is to be treated as if that person had been appointed under section 6 (1) of the Principal Act as amended by this section; and
- 5 (b) the period of appointment and terms and conditions of appointment of that person are those specified by the Governor in Council.

**Commissioner may initiate investigation.**

5. (1) After section 41 (2) of the Principal Act, insert—

10 “(2A) If, in the course of the performance of the Commissioner’s functions under section 16 (1), the Commissioner becomes aware of circumstances where an act of discrimination which the Commissioner considers is of a type described in sub-section (2B) may have been committed, the Commissioner may, if the Minister consents, investigate

15 the matter.

(2B) The act of discrimination under sub-section (1) must—

- (a) be of such a serious nature that it warrants the investigation; and
- (b) be discrimination against a class or group of persons; and
- 20 (c) be in circumstances in which the lodging of a complaint by one person only would not be appropriate”.

(2) In section 41 (3) of the Principal Act, after “(2)” insert “or (2A)”.

**Schedule.**

25 6. The Acts referred to in the Schedule are amended as specified in the Schedule.

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## SCHEDULE

## Section 6

## REMOVAL OF DISCRIMINATORY PROVISIONS IN CERTAIN ACTS

<i>Title of Act</i>	<i>Provisions</i>	<i>Extent of Amendment</i>
<i>Alcoholics and Drug-Dependent Persons Act</i> 1968	Section 26 (4) (ii)	For "if there is no husband or wife or the mother if there is no father, or any of the next of kin if there is no mother" substitute "or mother if there is no husband or wife, or any of the next of kin if there is no mother and no father".
<i>Constitution Act</i> 1975	Section 7A (1) (b)	For "his retirement" substitute "that person's retirement".
	Section 7A (1) (b)	For "his office" substitute "that person's office".
	Section 7A (3) (a)	For "his death" substitute "that person's death".
	Section 7A (3)	For "his widow shall subject to sub-section (4) until her" substitute "that person's spouse shall subject to sub-section (4) until the spouse's".
	Section 7A (4)	For "his service or the service of her husband" substitute "that person's service or the service of the spouse of that person".
	Section 7A (5)	For "widow of any former Governor in any case where she married him after he" substitute "spouse of any former Governor in any case where that spouse married that former Governor after that person".
	Section 83 (2)	For "his" substitute "the judge's".
	Section 83 (3)	For "widow" substitute "spouse".
	Section 83 (3)	For "she" substitute "that spouse".
	Section 83 (3)	For "his" substitute "that Judge's".
<i>Constitution Act Amendment Act, The</i> 1958	Section 42 (3) (a)	For "his salary" (wherever occurring) substitute "that member's salary".
	Section 42 (3) (a)	For "to him" substitute "to that person".
	Section 42 (3) (a)	For "his legal" substitute "that member's legal".
	Section 42 (3) (b)	For "his widow" substitute "that member's spouse".
	Section 42 (3) (b)	For "his legal" substitute "that member's legal".
	Section 42 (3) (b)	For "his salary" substitute "that member's salary".
	Section 42 (4) (c)	For "his death" substitute "that person's death".

## SCHEDULE—continued

<i>Title of Act</i>	<i>Provisions</i>	<i>Extent of Amendment</i>	
<i>Constitution Act Amendment Act, The 1958—continued</i>	Section 42 (4)	For “widow of such person or member shall until her” substitute “spouse of such person or member shall until that spouse’s”.	
	Section 42 (4)	For “widow” shall not include a woman who married a former member after he substitute “spouse” shall not include a person who married a former member after that former member’.	
	Section 42 (6) (b) (ii)	For “his” (where first occurring) substitute “that person’s”.	
	Section 42 (6) (b)	For “his widow” substitute “that person’s spouse”.	
	Section 42 (6) (b)	For “the widow” substitute “the spouse”.	
	Section 42 (7)	For “his right” substitute “that person’s right”.	
	Section 42 (7)	For “while he” substitute “while that person”.	
	Section 42 (7)	For “where he” substitute “where that person”.	
	Section 42 (8)	For “whose widow” substitute “whose spouse”.	
	Section 42 (8)	For “his widow” substitute “that person’s spouse”.	
	Section 43	For “the widow” substitute “the spouse”.	
	Section 43 (a)	For “his widow” substitute “that member’s spouse”.	
	Section 43 (a)	For “his legal” (wherever occurring) substitute “that member’s legal”	
	Section 43 (a)	For “his salary” (wherever occurring) substitute “that member’s salary”.	
	Section 44 (2)	For “his right” substitute “that person’s right”.	
	Section 45	For “widow” substitute “spouse”.	
	Section 49	Omit the expression commencing “, and thereupon such person” and ending “or the force”.	
		Division 8 of Part II.	This Division is repealed.
	<i>Coroners Act 1985</i>	Section 45 (4) (b)	For “widow” substitute “spouse”.
<i>County Court Act 1958</i>	Section 81 (2)	For this sub-section substitute— “(2) Nothing in this section authorises the exclusion from the court of any party to or witness in any criminal proceedings, appeal, action or matter or of any counsel or practitioner.”.	

SCHEDULE—*continued*

<i>Title of Act</i>	<i>Provisions</i>	<i>Extent of Amendment</i>
<i>Discharged Servicemen's Preference Act 1943</i>	Section 2 (Definition of "Suitable and competent")	In paragraph (b), omit "the required sex and".
<i>Legal Profession Practice Act 1958</i>	Section 60 (1) (b)	For "by him" substitute "by the solicitor".
<i>Legal Profession Practice Act 1958—continued</i>	Section 60 (1) (c)	For "him" substitute "that solicitor".
	Section 60 (1) (c)	For "his legal representative or to his widow" substitute "the solicitor's legal representative or to the solicitor's spouse".
	Section 60 (1) (c)	For "his legal representative" (where secondly occurring) substitute "the solicitor's legal representative".
<i>Lotteries Gaming and Betting Act 1966</i>	Section 71	Repeal this section.
<i>Marine Act 1958</i>	Section 91	For "widows" substitute "spouses".
	Section 91A	For "widows" substitute "spouses".
	Section 92	For "widows" substitute "spouses".
<i>Motor Boating Act 1961</i>	Section 14	For "discharged serviceman" substitute "discharged member of the Forces".
	Section 14	For "his war service" substitute "war service".
	Section 14 (b)	For "his powers" substitute "that person's powers".
	Section 14	For "his wife" substitute "the applicant's spouse".
	Section 14	For "his family" substitute "the applicant's family".
<i>Parliamentary Officers Act 1975</i>	Section 8 (1)	For "seniority and merit combined" substitute "merit".
<i>Partnership Act 1958</i>	Section 6 (3)	For "he is a partner" substitute "that person is a partner".
	Section 6 (3)	For "make him a partner" (where twice occurring) substitute "make that person a partner".
	Section 6 (3) (c)	For "widow" substitute "spouse".
	Section 6 (3) (e)	For "by him" substitute "by that person".
<i>Police Assistance Compensation Act 1968</i>	Section 2 (1) (c)	For "his duty" substitute "that member's duty".
	Section 2 (1)	For "he had" substitute "that person had".
	Section 2 (1)	For "he could" substitute "that person could".
	Section 2 (1)	For "he would" substitute "that person would".
	Section 2 (1)	For "him to" substitute "that person to".



SCHEDULE—*continued*

<i>Title of Act</i>	<i>Provisions</i>	<i>Extent of Amendment</i>
<i>Police Assistance Compensation Act 1968—continued</i>	Section 2 (1)	For “his death his wife” substitute “that person’s death, that person’s spouse”.
<i>Port of Melbourne Authority Act 1958</i>	Section 15 (4)	For “his period” (where first occurring) substitute “that person’s period”.
	Section 15 (4) (b)	For “widow” substitute “spouse”.
	Section 15 (4)	For “his period” (where secondly occurring) substitute “that person’s period”.
	Section 15 (4)	For “his contributions” substitute “that person’s contributions”.
	Section 37 (1) (d)	For “his wife” substitute “that employe’s spouse”.

